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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/669,393

09/23/2003

Atsuo Inamura

00597/0200056-US0

3944

7278

7590

09/22/2009

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EXAMINER

TAWFIK, SAMEH

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

09/22/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DETAILED ACTION

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Canceled, originally filed claims 1 and 2 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1 and 2 of prior U.S. Patent No. 7,395,944. This is a double patenting rejection.

Canceled, originally filed claims 1 and 2 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-3 of prior U.S. Patent No. 7,228,988. This is a double patenting rejection.

Response to Arguments

Applicant's arguments filed 07/09/2009 have been fully considered but they are not persuasive.

Applicant argues that the amended claim 1 is patentably distinguish over the double patenting rejection of U.S Patent Nos. 7,228,988 and 7,395,944. It is maintained that both applied references '988 and 944 are referring to "movable tension applying means" and/or "tension applying means", which is in title for the 112 6th., by going to the way it has been described in the filed specification and drawings was found that exactly the same as been

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claimed in the current application, see for example (Fig. 4 of both applied art; via inclined plate 101).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470.

The examiner can normally be reached on Tuesday - Friday from 9:00 AM to 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sameh H. Tawfik/
Primary Examiner, Art Unit 3721